

will transmit the report to the area claims office (ACO) or claims processing office (CPO) for investigation.

(2) *Investigation.* Claims arising out of acts or omissions of employees of NAF activities will be investigated in the manner set forth in subpart B of this part. A determination as to whether the claim is cognizable under this section will be made as soon as practicable.

(d) *Customer complaints.* AAFES-generated complaints will be handled in accordance with Exchange Service Manual 57-2. NAFI-generated complaints will be handled in accordance with AR 215-1, chapter 3. Complaints generated by appropriated funds laundry and dry-cleaning operations will be handled in accordance with AR 210-130, chapter 2. Complaints generated by refunds of sales proceeds will be handled in accordance with Exchange Operating Procedures (EOP) 57-2.

(e) *Commercial insurance.* Certain NAFI activities (such as flying and parachute activities, and all AAFES concessionaires) may have private commercial insurance.

(1) A claims investigation under subpart B of this part will not be conducted except when the claim's estimated value may exceed the insurance policy limits. In that event, the Commander USARCS, will be notified immediately and an investigation will be conducted with a view to determining whether the United States may be liable under subparts C, D, F, H or J of this part. Otherwise, the ACO or CPO will refer the claim to the insurer and furnish copies to the USARCS AAO, as required in AR 27-20, paragraph 2-12. Assistance will be furnished to the insurer as needed. Copies of any other required investigations may be furnished to the insurer.

(2) The claim will be reviewed at key intervals to ensure that progress is being made, negotiations are properly conducted, and the file is closed. The Commander USARCS will be advised of any problems.

(3) If requested by either the insurer or NAFI officials, the appropriate claims authority will assist in or conduct negotiations.

(4) Where NAFI vehicles are required to be covered by insurance in foreign

countries, the insurer will process the claim. However, if the policy coverage limit is exceeded or the insurer is insolvent, the claim may be processed under subpart G, §§ 536.114 through 536.116 (Claims arising overseas) or, if subpart G does not apply, under subparts C or J of this part. See § 536.139(c) for additional guidance.

§ 536.149 Identification of persons whose actions may generate liability.

Claims resulting from the acts or omissions of members of the classes of persons listed below may be processed under this section. An ACO or a CPO authority will ask the Commander USARCS, for an advisory opinion prior to settling any claim where the person whose conduct generated the claim does not clearly fall within one of the following categories:

(a) Civilian employees of NAFI activities whose salaries are paid from NAFs.

(b) Active duty military personnel while performing off-duty part-time work for which they are compensated from NAFIs, not to include members who are acting in their capacity as an officer or other official of the NAFI.

(c) Volunteers serving in an official capacity in furtherance of the business of the United States, limited to those categories set forth in DA Pam 27-162, paragraph 2-45d.

§ 536.150 Claims payable from appropriated funds.

Claims payable from appropriated funds will be processed under the appropriate subpart. Appropriated fund payable claims include those resulting from:

(a) Acts or omissions of military personnel while performing assigned military duties in connection with NAFI activities.

(b) Acts or omissions of civilian employees paid from appropriated funds in connection with NAFI activities.

(c) Negligent maintenance of an appropriated funds facility used by a NAFI activity but for which the Department of Defense or Department of the Army (DA) command concerned is responsible and has been notified of the deficiency by the NAF. Where liability

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is determined to exist for both a NAFI and an appropriated fund activity, liability will be apportioned between the two activities.

(d) Temporary use of a NAFI facility by an appropriated fund activity.

(e) Operation of government owned or rented vehicles on authorized missions for NAFI activities where the driver is a DA soldier or civilian employee and is paid from APFs.

§ 536.151 Settlement authority for claims generated by acts or omissions of NAFI employees.

(a) *Settlement.* Claims cognizable under this section and processed under subparts C, D, E, G, H or J of this part will be settled by claims authorities authorized to settle claims under those subparts subject to the same monetary and denial authority limitations, except that The Judge Advocate General (TJAG), The Assistant Judge Advocate General (TAJAG), and the Commander USARCS may settle such claims without regard to monetary limitations. However, the approval of the Attorney General or Assistant General Counsel may be required for an apportioned amount to be paid from APFs when subpart D of this part procedures are used and the amount to be paid from APFs exceeds \$200,000. Similarly, approval of TAJAG, the Attorney General or the Assistant General Counsel is required when using procedures under subparts C, F, H, or J of this part and an apportioned amount to be paid from APFs exceeds the limits set for the Commander, USARCS.

(b) *Finality of settlement.* A determination made by a claims settlement authority on a claim processed under subpart D of this part is subject to suit. A claim processed under subparts C or F of this part may be appealed. Claims processed under subparts C, D, E, H, or J of this part, or AR 27-20, chapter 11 may be reconsidered in accordance with the sections addressing reconsideration in those subparts (or paragraphs in the case of Chapter 11).

§ 536.152 Payment of claims generated by acts or omissions of NAFI employees.

(a) The settlement or approval authority will forward the appropriate

payment documents to the office listed in DA Pam 27-162, paragraph 2-80h, for payment.

(b) Reimbursement to a foreign country of the United States' pro rata share of a claim paid pursuant to an international agreement will be made from NAFs.

§ 536.153 Claims involving tortfeasors other than nonappropriated fund employees: NAFI contractors.

AAFES concessionaires and NAFI contractors, such as entertainment performers or groups, carnival operators, and fireworks displayers are considered independent contractors and claims arising from their activities should be disposed of as set forth in DA Pam 27-162, paragraph 2-15f. If a dispute arises as to the availability of liability or workers compensation insurance the claims should be referred to AAFES Dallas (see address in § 536.30(e)(4)) or the Central Insurance Fund, U.S. Army Community and Family Support Agency as applicable.

§ 536.154 Claims involving tortfeasors other than nonappropriated fund employees: NAFI risk management program (RIMP) claims.

The risk management program (RIMP) is administered by the U.S. Army Community and Family Support Center under the provisions of AR 215-1 and AR 608-10 (Family Child Care Provider Claims). Providers in order to encourage authorized personnel, that is, military and civilian employees, to use the family child care program and sports equipment, such claims are processed in a manner similar to NAFI claims in §§ 536.146 through 536.152 of this subpart. Certain claims are payable from nonappropriated funds even though the U.S. is not liable under the FTCA or the MCA as the tortfeasor is not an appropriated fund or non-appropriated fund employee.

§ 536.155 Claims payable involving tortfeasors other than non-appropriated fund employees.

(a) Non-NAFI RIMP claims can arise from the activities of:

(1) Members of NAFIs or authorized users of NAFI sports equipment or devices for recreational purposes, while